IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 27498 of 2004(W)

PETITIONER:

SAROJA VASANTHA PREMAKUMARI,
D/O. RETNA BAI, W/O. D. SATHYANESAN,
RESIDING AT NEENA BHAVAN, VIZHAVOOR,
MALAYAM POST, TRIVANDRUM.

BY ADV. SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW

RESPONDENTS:

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1. BRANCH MANAGER, KERALA STATE FINANCIAL ENTERPRISES, MEDICAL COLLEGE BRANCH, KERALA STATE FINANCIAL ENTERPRISES, TRIVANDRUM.

2. SPECIAL DY.COLLECTOR, (REVENUE) KERALA STATE FINANCIAL ENTERPRISE, TRICHUR, KERALA.

BY ADV. SRI.RAJU JOSEPH, ADDL.SC.,KSFE LTD.
SRI.M.K.CHANDRAMOHAN DAS, SC, KSFE, LTD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 27498/2004

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF DEMAND NOTICE DATED 06/05/2004 ISSUED BY 2ND RESPONDENT.

P2 : COPY OF DEMAND NOTICE BEFORE ATTACHEMNT DATED NIL ISSUED BY 2ND RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 27498 of 2004

Dated, this the 18th day of December, 2007

J U D G M E N T

Petitioner admittedly availed loan from 1st respondent for construction of a house. Even though petitioner was given monthly instalments to clear the arrears in the course of seven years, petitioner remitted only 4 instalments and therefore, recovery was initiated against the petitioner. Learned standing counsel for 1st respondent submits that since loan is covered by equitable mortgage, after default respondents are free to attach and sell the house / property. If default continues, then respondents will be free to attach and sell the mortgaged property. Moreover, since loan period is mostly over, there is no scope for rescheduling the loan.

2. There will be direction to 1st respondent to give a statement of accounts to the petitioner within a week from the date of production of a copy of this judgment excluding penal and default interest and give some time to settle liability without penal rates of interest. It will be open to the petitioner to arrange to sell the mortgaged property, but sale deed will be executed only after clearing the entire arrears and after getting the title deed released

by 1st respondent. If liability is not settled within the time granted by first respondent full arrears can be recovered by sale of property.

This writ petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg